IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No. 882 of 1998

For Approval and Signature:

HONOURABLE MR.JUSTICE H.B.ANTANI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT
Versus
RAMESHBHAI JAKASHIBHAI

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Appearance :
MS HANSA PUNANI, ADDL. PUBLIC PROSECUTOR for Appellant.
None appears for respondent No.1 though served.

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CORAM : HONOURABLE MR.JUSTICE H.B.ANTANI

Date : 25/10/2007

ORAL JUDGMENT

By way of filing the present appeal, the State has

assailed the order dated 04.08.98 passed by learned Metropolitan Magistrate, Court No. 12, Ahmedabad in Criminal Case No. 616 of 1993, acquitting the respondent-accused for the offences punishable under sections 279 and 337 of the Indian Penal Code and sections 177 and 184 of the Motor Vehicles Act.

As per the prosecution case, charge was framed against the respondent for offences punishable under sections 279 and 337 of the Indian Penal Code and sections 177 and 184 of the Motor Vehicles Act. The respondent pleased not guilty to the charges levelled against him. Therefore, the matter was set down for full-fledged trial before the learned trial Judge. The prosecution has examined nine witnesses, and has produced documentary evidence such as complaint, injury certificate given by Vadilal Sarabhai General Hospital etc. to prove the guilt of the respondent for rash and negligent driving. At the conclusion of the trial, the learned Judge came to the conclusion that the prosecution has miserably failed to prove rash and negligent driving by the respondent, and, therefore, considering the evidence on record, the learned trial Judge acquitted the respondent for offences punishable under sections 279 and 337 of the Indian Penal Code and sections 177 and 184 of the Motor Vehicles Act.

Aggrieved by the order of acquittal passed by the learned trial Judge, the State has preferred the present appeal.

Ms. Hansa Punani, learned Additional Public Prosecutor representing the State submitted that the

learned trial Judge has committed an error in acquitting the respondent for offences punishable under sections 279 and 337 of the Indian Penal Code and sections 177 and 184 of the Motor Vehicles Act. Learned APP further submitted that the learned trial Judge has not considered the evidence on record of the case in its proper perspective before acquitting the respondent, and, therefore, the appeal filed by the State requires to be allowed and necessary order of punishment be passed against the respondent.

Though served, no one has appeared on behalf of the respondents.

I have heard learned Additional Public Prosecutor at great length and in great detail. I have gone through the evidence adduced in the case and perused the judgment rendered by the learned trial Judge and the reasons assigned by him while acquitting the respondent.

On re-appreciation of the evidence on record of the case, the respondent is charged or the offences punishable under sections 279 and 337 of the Indian Penal Code and sections 177 and 184 of the Motor Vehicles Act. The learned trial Judge examined 9 witnesses and also considered the documentary evidence produced by the prosecution. Even the injury certificate produced at Exh.24 does not indicate any serious injuries sustained by the injured and there was no fracture. On re-appraisal of the evidence, I do not see any infirmities in the order passed by the learned trial Judge and the prosecution has miserably failed to prove rash and negligent driving by the respondent.

This is an acquittal appeal in which the Court would be slow to interfere with the order of acquittal. Infirmities in the prosecution case go to the root of the matter and strike a vital blow on the prosecution case. In such a case, it would not be safe to set aside the order of acquittal, more particularly when the evidence has not inspired confidence of the learned Judge who had the opportunity to observe demeanour of the witnesses. As this Court is in general agreement with the view expressed by the learned Judge, the Court does not think it necessary either to reiterate the evidence of prosecution witnesses or to restate the reasons for acquittal given by the learned Judge and this Court is of the opinion that expression of general agreement with the view taken by the learned Judge would be sufficient in the facts of the case. This is so in view of the decisions rendered by the Supreme Court in the cases of (1) Girija Nandini Devi & Others Vs. Bijendra Narain Chaudhari, AIR 1967 SC 1124, and (2) State of Karnataka Vs. Hema Reddy and Another, AIR 1981 SC 1417.

For the foregoing reasons, the appeal fails and is dismissed. Bail bond stands cancelled.

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